

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:)	Attorney Docket No. 7175-004US
Jacques M. Dulin)	
)	Group Art Unit: 1614
Serial No.: 10/700,784)	Examiner: Leslie A. Royds
)	Date: February 26, 2007
Filed: November 3, 2003)	Phone: 571 – 272 - 6096
)	Fax: 571 – 273 - 8300
Title: Oral Hygiene System and)	
Method of Treatment)	

Certification under 37 CFR 1.6
Electronic Filing Date: February 26, 2007, Pages 30 (18 Response, 12 Declaration)
I hereby certify that this paper is being filed electronically on the above stated date to Examiner Leslie Royds.
Name: Betty Oppenheimer Signature: <u> /Betty Oppenheimer/ </u>

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT
RESUBMITTAL OF RESPONSE TO OFFICE ACTION OF OCTOBER 18, 2006,
INCLUDING SUBMISSION OF Dr. NOVOTNY'S DECLARATION
REQUEST FOR EXTENSION OF TIME – FEE CHARGE AUTHORIZATION
REQUEST FOR TELEPHONE INTERVIEW
THIS CASE IS SPECIAL

MAIL STOP AMENDMENT
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Sir:

Section 1, Introduction and request for extension of time:

This is Applicant's Response to the Notice of Non-Compliant Amendment, with the status identifiers in the Claims section corrected to conform with the identifiers listed in the Notice. This entire submittal is a refiling of the Response to the Office Action of October 18, 2007 which was due February 25, 2007 pursuant to a one-month extension of time, hereby requested. No new claims are introduced. The fee of \$60 for the one month extension for a small entity was authorized to be charged to Deposit Account 04-1699 when this Response was filed on 2/12/07. Should this be in error, the Office is authorized to charge any additional fee due to Deposit Account 04-1699. Please reference Docket Number 7175-004 US in connection with any transaction to assist counsel in

tracking.

This Case is Special:

The Examiner is reminded that this case has been made Special, based on Applicant's age. The Special Status is **NOT** based on the new accelerated examination procedure.

Request for Telephone Interview:

Applicant requests a Telephone Interview with the Examiner to discuss whether or not, and if not, why not, the Declaration of Dr. Milo Novotny submitted herewith has overcome the *prima facie* opinion of obviousness of the Examiner as stated in the subject Office Action of October 18, 2006. Further, Applicant wishes to determine what references, if any, remain applied against the amended claims. The Examiner is requested to contact undersigned counsel at 360-681-7305 to set up a time mutually convenient for the Interview.

The Restriction Requirement:

In response to the Examiner's comments on the terms of the restriction requirement with respect to whether it was made with, or without, traverse, appearing on page 4, last paragraph, of the Detailed Action, Applicant respectfully reminds the Examiner that this case was made Special based on Applicant's age, and this case was filed prior to August 25, 2006.

MPEP 708.02 states:

"Any petition to make special, **other than those based on applicant's** health or **age** or the Patent Prosecution Highway (PPH) pilot program, **filed on or after August 25, 2006** must meet the requirements for the revised accelerated examination program set forth in MPEP § **708.02(a)**. See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age."

Accordingly, the proviso quoted by the Examiner does not apply, and waiving traverse is not required (nor was it waived).

Summary of Claim Status, Including Current Status:

Claims 1 – 15 are currently in this case as a result of Applicant's provisional election of those claims with traverse, and the "anti-microbial" species of claim 3, also with traverse. Claim 5 has been withdrawn from consideration at this time as directed to a non-elected species.

In this Response, Claims 1 and 10 have been amended in an attempt to resolve the Section 112 rejection. No claims are cancelled, and all 20 are presented herewith, with their current status being indicated adjacent each, per the PTO Revised Notice dated 02/13/03.

End of Section 1, Introduction: